

THE HABITUAL CRIMINAL.¹

By MAJOR LEONARD DARWIN.

SIR Francis Galton was born on February 16th, 1822, and this year on the anniversary of that date we met to celebrate the event, thus establishing what we hope will prove in future to be an invariable custom of our Society. This celebration having met with your unanimous approval, it is quite unnecessary now to repeat all the arguments in its favour. One of the objects hoped to be attained by these annual gatherings may however well be emphasized over and over again on these occasions, and that is to ensure that the meaning which the founder of our science attached to the word "eugenics" shall never be lost sight of. In the case of those who have for long been devoting their best efforts to the study of questions immediately affecting human environment—in other words in the case of nearly all philanthropists—the diversion of their attention to questions connected with heredity seems to require a severe mental wrench, an effort which many of them appear to be wholly incapable of making. In short, many persons of the highest character have not yet learned to think eugenically. As to those whose thoughts are exclusively devoted to the betterment of their own personal surroundings, a change in their mental attitude is almost past praying for. But earnest social reformers, who have not studied Eugenics seriously, should have their attention drawn as frequently as possible to the many extracts from Galton's writings which indicate his ideals, not in the least with the desire of making them abandon their present aims, but in the hope that they may thus be led to spare a portion of their sympathies for our endeavours. Only one such quotation will here be given. Eugenics, or the science of improving stock, is we are told, "by no means confined to questions of judicious mating, but . . . takes cognisance of all influences that tend, in however remote a

¹ Presidential address delivered at the annual general meeting of the Eugenics Education Society, held at the Grafton Galleries, July 2nd, 1914.

degree, to give to the more suitable races or strains of blood a better chance of prevailing speedily over the less suitable than they otherwise would have had "¹—the word "prevailing" no doubt here being used in a racial and not in an immediately destructive sense.

The aim of the philanthropist or of the social reformer is to improve the environment of the people, and all men, whether eugenists or not, are bound to sympathise with them as regards the objects thus sought to be attained. We must as citizens aid in the cure of the sick and in the alleviation of the destitute, even though as eugenists we see that the multiplication of the less desirable types of humanity is thus encouraged. But, though social reform is often accompanied by harmful eugenic consequences, yet on the other hand unintended eugenic advantages also often arise. In these circumstances it must obviously be our policy to try not only to mitigate or apply an antidote for the eugenic harm now resulting from philanthropic efforts and legislation, but also to increase their beneficial eugenic consequences if there be any. No doubt environmental reforms, with their agreeable immediate results, will always be far more attractive than eugenic reforms, which are intended only to benefit posterity; and for this reason we must be on our guard against the pressure so often felt tending to push eugenic proposals into the background. But, remembering this danger, we should not only express our human sympathies with the aims of social reformers, but as eugenists should openly join hands with them in so far as we can thus hope to secure eugenic benefits.

There is one broad consideration which may well lead us to hope that some eugenic advantages will not infrequently spring from reforms merely intended to affect human surroundings. The philanthropist is constantly aiming at the cure or the reform of the individual, and his efforts must result in those more easily cured or reformed being separated out from those less amenable to environmental influences. In the opinion of eugenists however, this is in fact in large measure a sorting out of those more strongly endowed with innate harmful pro-

¹ *Inquiries into Human Faculty*, Everyman's Library, p. 17 note.

clivities from those having a better natural inheritance. For example, patients who are completely cured by sanatorium treatment have on an average a weaker tubercular diathesis than those who linger on for long afterwards as consumptive invalids. Again the farm colony system of dealing with tramps, which has been established in certain foreign countries, tends to separate out those whose poverty is mainly due to bad surroundings or to ill luck from those who differ from the industrious working man mainly in having been born with some definite mental or bodily defects. In reply it may be urged that all these social failures are due to bad environment having burnt its way so deeply into the character as to leave an incurable wound. But social reformers have long been at work trying to remove all the harmful elements in human surroundings, and the greater the success of their efforts, the more even will be the terms on which the race of life will be run; or, in other words, as social reform proceeds, the differences in heritable natural qualities will have relatively more influence and the differences of environment relatively less influence on the social fate of the individual. If, in time, all men were shown to be equally amenable to environmental influences, none being found to be incurable or irreformable, then it is true the eugenicist would be proved to be wrong in holding that the innate tendencies of a race are the basis on which the whole structure of its civilization ultimately rests. The popular belief in the innate equality of men will, however, gradually disappear in the face of irrefutable facts, and it will before long be generally recognised that there does exist a large class of human beings whose fertility should be as much as possible diminished for the sake of posterity, this being the main task of the eugenic reformer. We see then that, as social reform proceeds and as the unfit are thus more and more clearly marked out from the nation at large, the numbers to be considered with reference to eugenic reform will be proportionately diminished, and this method of securing racial progress will thus be greatly facilitated. Though we ought never to forget the harm which is now being done by the encouragement to breed and multiply given in many ways to the less desirable types of humanity, yet

on the other hand we must do our utmost to utilize and foster all that is good in the inevitable features of advancing civilization, including this unintended sorting out of the innately defective.

Several examples might be given of social reforms producing eugenic by-products which might be more effectively utilized than at present, but of these only one will now be mentioned, namely, the recent and proposed changes in the treatment of habitual criminals, especially those who have committed many minor offences. In their case the eugenicist first has to show that it is necessary to enquire into the need for lessening their rate of reproduction on account of their heritable innate qualities. In Dr. Goring's recently issued work on "The English Convict," strong reasons are given, supported by careful statistical investigations, for believing that criminals are not a class apart, but merely ordinary individuals with certain common innate qualities exceptionally well marked, a conclusion with which I am fully in accord. It is not any single heritable quality, but several different qualities which together have had the effect of making this section of the community respond in an undesirable manner to the stimulus of the surroundings into which they are thrown. Even though a general improvement in the environment of the nation and of the prisoner would cause a diminution in crime, yet few will deny that whatever advances were made in these directions, a more or less numerous remnant would still remain who would be addicted to crime. And if the criminals who would thus be proved to be unamenable to reform could be sorted out from the rest, the fact that they are not abnormal monsters, as some criminologists have asserted, affords no justification whatever for neglecting to consider the possible effects on posterity of permitting them to breed freely. Their strong natural tendencies, like great height or any other well marked inborn human characteristic, are, we hold, subject to all the laws of natural inheritance, and will infallibly tend to reappear in their descendants. If this be so, to lessen their fertility must be regarded as well within the scope of eugenic reform.¹

¹ See *Crime and Criminals*. R. F. Quinton, p. 119.

The heritability of the innate tendencies which lead to crime will probably be denied in many quarters, even though it be admitted that crime itself has a marked tendency to run in families, a conclusion greatly reinforced by Dr. Goring's work. This admission, however, by no means establishes the case of the eugenicist; for tradition and circumstances of various kinds often lead to several members of a family adopting the same profession, and similarity of environment may, in like manner, account for more than one of a family taking to crime as a livelihood. The eugenicist has, indeed, to base his case largely on analogy when urging the prime necessity of taking the differences of innate qualities also into account when searching for the ultimate causes of crime, and unfortunately such broad considerations weigh but little with the general public. We shall therefore be wise in regarding this question of natural heritability as at present a weak part of our armour when attacking problems connected with criminality, and we should therefore urge the necessity of further research on this subject however confident we may be that the result would merely serve to strengthen our position.

Though it lies somewhat outside the scope of my subject to consider the methods which should be adopted in such investigations, yet a word or two on this point may, perhaps, be permitted. The collection of pedigrees of criminal and non-criminal families with proper care is of great value; but in drawing conclusions from them we are always brought face to face with the difficulty of eliminating the element of environment. A better method of solving this problem would be to follow the career of children who had been removed early from their criminal parents and home surroundings, and to compare them with the careers of other children in otherwise similar circumstances. But in carrying out this difficult investigation, it would be necessary to bear in mind a characteristic which may be and I believe is common amongst criminals, namely, their great amenability to the influences of their surroundings. The same person who is easily influenced for evil in a bad home may also be easily, though, perhaps, only temporarily, influenced for good in a well-managed institution. In carry-

ing out such an investigation, a record must certainly therefore be kept until some little time after the period of manhood has been reached, and, indeed, the enquiry, to be thoroughly conclusive, ought to extend into a third generation.

Even in the present state of our knowledge, the eugenist has, however, little doubt as to the causes which ordinarily lead to a life of crime. Individuals endowed with those natural qualities, mental or physical, which render resistance to crime more than ordinarily difficult, must often be brought into bad surroundings, mental or physical; the bad environment reacts on them, dragging them down in body and mind, and this action and reaction continuing either in the individual or generation after generation, results finally in a long series of short imprisonments. The aim of the social reformer is, when possible, to break the vicious circle by at once removing the link of bad environment; whilst the eugenist would at the same time also strive to strengthen the innate characters of the individuals composing the coming generations. This latter result might, we believe, be obtained by selective breeding, for some relative increase in the powers of resistance in our nation in the future could be obtained even if only a proportion, small or great, of the criminal members of bad families were prevented from becoming parents. Putting aside the "uncultured," amongst whom "the criminal has always been the hero,"¹ no one would assert that crime picks out the best members of a family, though it might be seriously urged that the criminal often shows a superior power of initiative to that displayed by his law-abiding brother. But in a bad family may it not even more often be the boy who grows up to be a good citizen who shows the greatest independence of character? Again, courage has been claimed as a marked characteristic of the criminal, and this is no doubt true as regards those convicted of certain crimes always severely punished when detected. But, as regards the man of many petty crimes, the only courage he as a rule need show is that required to face disgrace and imprisonment. Is this a racial quality worth preserving at great cost and suffering to the nation? Those who

¹ The Criminal. Havelock Harris. p. 349.

study the "vacuous minded, erratic and animal person who is usually" the habitual criminal will find few qualities in him to admire.¹

If it be granted that there does exist a class of criminals whose seed should not be permitted to contaminate posterity, our first step obviously should be to sort them out for special treatment. This country contains a large habitual criminal population, so large, according to Dr. Goring, that those convicted six times and more number over one hundred thousand individuals; and, even if this careful estimate should prove to be in excess of the truth, we yet may conclude from it that the eugenicist can only hope now to deal with the worst cases, a limitation of endeavour which would be wise on the mere grounds of expediency. Our object should be therefore to pick out those who are endowed to a very exceptional extent with natural qualities which facilitate the adoption of a life of crime; and, in this demarcation, the number of crimes committed is the most important criterion to be held in view. Though the effects of the differences in home surroundings would not thus be eliminated, yet we may feel sure that the man of many crimes nearly always has in a high degree all those innate qualities which tempt him to wander from the path of honesty; whilst this method of differentiating him from the rest of the criminal population, being both easily understood and based on judicial decisions, would be that most readily accepted by the public. Then again, the stronger these damaging tendencies the earlier in life will the criminal, on an average, begin his life of crime, because the sooner will all influences for good be overcome. A well-marked characteristic of the criminal class generally (excluding those convicted of fraud of various kinds), according to Dr. Goring and others, is their mental defectiveness or stupidity; and this, therefore, is a heritable quality leading to crime which ought to be taken into consideration, especially as it has no counterbalancing advantages. Bodily defects of a heritable character are also found to be correlated with crime; for habitual criminals are certainly below the average of the community in physical strength, if those committed for crimes

of violence are omitted from the list. Weakness of body, no doubt, militates against the chances of honest employment; and, although this fact should arouse our pity for those thus afflicted, yet we must remember that these defects, if transmitted by heredity, would in like manner make their descendants especially liable to fail when tempted. All that is now being done in the direction of the psychological and physical examination of both prisoners and school children should therefore be encouraged and extended; for the records of such investigations, if properly conducted, would be of great value in estimating the fitness of the criminal to meet the ordinary strains of life. The eugenicist may, in fact, safely conclude that if attention be paid to the number of crimes committed, to the age at which the life of crime was adopted and to all defects of mind or body, a well-instructed official supplied with full reports would have no difficulty in selecting a large number of individuals whose descendants, if they had any, would certainly be an element of national degeneracy in future. It should be noted, moreover, in this connection, that by these same tests we should be selecting those individuals who are most likely to drift back into a life of crime if given their liberty.

Having selected a class of the criminal community whose progeny the nation of the future could well do without, the next question is how the said progeny is to be prevented from appearing on the face of the earth. Whatever possibilities the future may bring with it, it must be admitted that the only method now within the region of practical politics in England for securing this result is the segregation of these criminals during the period of their fertility. If such detention were adopted only for limited periods—that is if the progeny of the selected class were merely reduced in numbers and not entirely obliterated—it is a common mistake to assume that little good would thus be done. Though the more complete the prohibition the more rapidly would this method of artificial selection, it is true, produce its maximum effect, yet merely temporary segregation would in certain conditions slowly produce the same ultimate results. According to Dr. Goring the decrease in the fertility of convicts, which is largely due to their lengthy imprisonment,

is such that in that class "crime ought to be decreasing"; or, in other words, penal servitude is now as a fact having a decidedly beneficial eugenic effect, granted that the qualities leading to crime are heritable.¹ May we not, therefore, conclude that a similar diminution in the number of the progeny of the short sentence habitual criminal would result from his prolonged detention, even if he were not given a life sentence?

With regard to the criminals who are "mentally deficient" within the meaning of the recent Act, their segregation is not now likely to be openly resisted, the battle on this point having been won in Parliament last year, largely, no doubt, by establishing the belief that segregation is the kindest course to adopt even as regards these unfortunates themselves. But, as to the man of many crimes, who is merely weak, stupid, or otherwise worthless, to convince the public of the advisability of prolonged segregation in his case on eugenic grounds is a very different matter from convincing the student of heredity; and it must be admitted that our proofs of the heritability of the criminal diathesis, as Dr. Goring calls it, are not now sufficiently convincing to enable us to found on them a bold eugenic policy. But if our existing criminal system is producing some beneficial eugenic effects, may it not be that certain reforms in the methods of punishment, though now advocated without any reference to their effects on posterity, might in an unintended manner produce increased eugenic benefits? A study of this subject has convinced me, at all events, that increased periods of detention of habitual criminals would produce both immediate social advantages and ultimate improvements in the racial qualities of future generations; and, if this be the case, the social reformer and the eugenicist ought to be able to march together on this path of criminal reform.

To mark out a common path which all might follow, we must, of course, show that the goals sought to be attained by these two schools of reformers can both be reached by this same road. The eugenicist condemns our existing system, whereby the habitual criminal is subjected to numerous short imprisonments, because not only does it not tend to lessen the number

¹ The English Convict, p. 336.

of his progeny, but is, indeed, likely to increase his racial productivity by, from time to time, giving him renewed vigour. Many social reformers condemn this same system no less vigorously, but on the ground that as a method of reforming the criminal himself it has been proved to be an utter failure. Statistics indicate that the greater number of punishments received on an average by any class of criminals the more likely they are on an average again to be convicted; and, with this fact before them, the social reformer can hardly urge that the criminal has benefited by his prison environment. All parties can, therefore, start on the common ground that the existing system of short sentences fails in many respects and leaves much to be desired.

The fact that imprisonment seems to be followed by an increased tendency to crime is, however, not attributable in large measure to the evil effects of that imprisonment. Our belief is that the stronger are all those innate tendencies which lead to a life of crime, the more often will crime be committed in a like environment; and, as evidence can be adduced to show that crime is not closely correlated with environment, it follows that, by picking out the men who have been most often convicted, we are unconsciously picking out a group with these harmful tendencies exceptionally strongly marked, that is a group exceptionally likely to lapse back again into crime. And, as our object is to prevent these innate qualities from reappearing in future generations, we believe that amongst criminals it is especially desirable to prevent those who have committed many crimes from becoming parents. We conclude, therefore, that the habitual criminal should be segregated for long periods, a conclusion with which the social reformer may agree, though on wholly distinct grounds. In the first place, as already remarked and as experience amply proves, a very high proportion of criminals of this type, if given their freedom, will commit fresh crimes and will be a serious nuisance to society, a nuisance from which the poor suffer even more than the rich. Then again, is not the habitual criminal if at liberty always a source of moral contagion to others? Many social reformers advocate the immense importance of environment, to an exaggerated

extent as we hold, and they ought to be the first to condemn the practice of letting loose thousands of utterly unreformed criminals into our slums, where their influence may be likened to that of animals carrying with them the germs of some foul disease. Ought we not therefore to try to overcome our natural repugnance to lengthy sentences in order both to save the now uncontaminated from contamination and to lessen the innate temptation to crime in the coming generations?

In reading the works of criminologists it is remarkable how very seldom the fate of the children of criminals is ever alluded to. Surely this is a serious omission if it be true, as certain figures given by Dr. Goring seem to indicate, that the child of a criminal is at least ten times more likely to enter prison than is the child of honest parents, and surely we now know sufficient to justify us in demanding some material changes in our methods of dealing with the criminal population because of the tendency of crime to run in families, whatever may be the explanation of this fact. The reformer who neglects heredity and looks only to environment may believe that several criminals being found in one family is merely an indication of the badness of that home. But, even if the question be regarded in this one-sided fashion, is it right that more children should be allowed to make their appearance in a home which according to this view has already produced such disastrous consequences? Again, as to the children who have already been born into these criminal surroundings, anyone who believes that their home life will make them anything like ten times more likely to go to prison than they would be if removed into a purer, moral and physical atmosphere, must surely advocate their removal from these tainted homes. But would not the inevitable result of such a proceeding be to throw practically the whole cost of their maintenance and training on the State, or, in other words, on the shoulders of the honest neighbours of the parents of these criminal families? Would not the removal of this economic strain from these bad households stimulate therein the production of more children, children who, in their turn, would have also to be transferred to State-supported institutions? And, in all cases where the breaking up of the

family seems to be a moral necessity, must we not ask whether it would be right that all this heavy burden should be thrown on the community at large merely in order to enable criminals freely to indulge their sexual appetites? A study of criminal family statistics must, in certain cases, make the most fervent believer in environmental effects demand the segregation of the criminal parent, both to safeguard the lives of those children who have been born into such foul surroundings and to lessen the numbers of those children who would otherwise be born to face the perils thus arising. And, as to the eugenicist, though he may be mainly studying those innate defects which criminals are certain to pass on to some extent to their descendants for an indefinite number of generations, yet he certainly should be eager to join hands with the social reformers in endeavouring to prolong the detention of habitual criminals with these most desirable ends in view. In short, this seems to be the right policy to adopt from whatever direction we approach this subject.

All that now remains to be considered is the legislative or administrative reforms necessary to obtain the results desired, and our first enquiry in this connection naturally is whether it would be possible to secure all the eugenic advantages now within our reach by a thorough administration of the Mental Deficiency Act. Much will have to be done before the machinery established under this Act will produce the best possible results, and unquestionably this is the field to which the eugenicist could now most usefully turn his attention. Though this latter point cannot be insisted on too strongly, yet there are good reasons why we should not rest our hopes of securing the segregation of habitual criminals even in the immediate future entirely on this one method. It is true that any person who can be proved to have been mentally defective *from an early age*, and who is found guilty of any criminal offence, may be dealt with under this Act, if either a feeble-minded person or a moral imbecile. But in order to take crime, actual or anticipated, into consideration in the case of a "feeble-minded" criminal, it would be necessary to prove, as it seems to me, that the public needed protection *because of* his feeble-mindedness and not merely because of his criminality ;

and, since the commission of crime could hardly be regarded as evidence of mental defectiveness, the conclusion that any further crime would be the actual result of that mental defectiveness would often be difficult to establish, even when some mental defects undoubtedly existed. In dealing with a criminal as a "moral imbecile" it would, on the other hand, be necessary to prove that he had displayed *from an early age* strong, vicious, or criminal propensities on which punishment had had but little effect, also a difficult fact to establish in later years. The commission of any number of additional crimes would, moreover, be no additional indication of vicious tendencies having existed *at an early age*, and in many cases would not therefore render a person more liable to be treated as a moral imbecile. Hence it seems that there are many loopholes in this Act through which undesirable specimens of humanity may be able to escape and then to reproduce their kind.

We cannot, in fact, form any trustworthy estimate of the number of criminals who will be dealt with under the provisions of the Mental Deficiency Act. It has been said that from one-fifth to one-tenth of the persons now in jail are found to be feeble-minded; and, if this statement affords a correct indication of the possible scope of the Act, we shall sooner or later be driven to enquire whether some steps ought not to be taken with regard to the remaining four-fifths or nine-tenths of our habitual criminal populations. If he can only be proved to be either very stupid, very weak or utterly worthless, is the man who commits crime after crime to be allowed to go on breeding freely? It may be fully admitted that there is only one really satisfactory test to apply to this class of the community in order to see if they are capable of playing their part as ordinary citizens, and that is the test of liberty. Under our existing system of punishments there are, however, many who fail over and over again when thus tested, and in cases where it appears that freedom will inevitably lead to a life of crime, does not that system stand condemned? Few who have studied these questions with care have any doubt that habitual criminals ought to be detained for longer periods than at present, whilst every effort should be made to make that detention more cura-

tive in its effects. Moreover, with each successive crime, these periods should be made longer and longer, until, when all hope of reclamation has ceased, permanent segregation must be enforced.

The foregoing considerations have led many criminologists to advocate the system of "indeterminate sentences" in the case of habitual criminals, that is to say a system whereby the offender after having been set at liberty "on license" can at any time be again placed in detention without further judicial proceedings. Though many strong arguments can be brought forward in favour of this system, it is doubtful whether it is worth while now considering it as regards this country, because of the strong opposition which would be aroused against any such proposed exercise of bureaucratic authority. A reform much more easily obtainable, and one which the eugenicist ought to endeavour to promote, would be the amendment of the Prevention of Crimes Act in such a manner as to make it more readily applicable to the man of many minor offences. This Act can now only be applied to persons who have been sentenced to three years penal servitude, a sentence which has to be carried into effect before the prisoner can be transferred to an institution for "preventive detention." It is true that penal servitude can be awarded on the ground that the offender is an habitual criminal, three previous convictions being on record. But members of the class we most wish to deal with are not often thus sentenced, because a court is naturally unwilling to give a heavy punishment unless in connection with a serious crime. By cancelling this provision, and in other ways, this Act could, however, be amended without difficulty so as to make it easier to increase the periods of detention of those thousands of unfortunate persons who possess defects of character which drive them whenever free to a life of crime and make them an intolerable nuisance to society—defects which, we believe, will inevitably reappear to some extent in their descendants if they have any. Such a reform would produce no great eugenic results; but, remembering the nature of the evolutionary process which has produced such marvellous results in the past, we might be satisfied with attempting to take this one short step at present.

Success in such an endeavour would, however, merely mean that we had reached a halting place from which a further advance could soon be made.

Time does not permit the discussion of other reforms which would in like manner give in no very remote degree an increased racial influence over posterity to the existing higher types of humanity. It should be the task of the eugenist to search them out, and to promote them when they would be on the whole beneficial. But for the immediate future it may well be that our main efforts should be devoted to that other aim mentioned by Francis Galton, namely, the judicious mating of mankind. If we could get the paramount racial duty which we owe to posterity incorporated as an essential part of the moral code of the nation, then we should be on the high road to success. Such a raising of our ethical standard would not only produce direct racial results of great value, but in its train would follow greatly increased efforts to solve the unsolved problems of our science, together with the supply of the funds necessary for these enquiries, and also an insistence on those eugenic reforms which this increasing knowledge would from time to time fully warrant.